IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 328 OF 2006

Kum.Kavita M. Gadekar,
Mapusa, Bardez, Goa. ... Petitioner.

V/s.

Director of Technical Education
and others. ... Respondents.

Mr. M.S. Sonak for the petitioner.

S.S.Kantak, Advocate General with Ms.G. Bhonsule for the State.

Mr. Marvin D'Souza for respondent No.4.

CORAM : V.C.DAGA and
N.A.BRITTO, JJ.

DATED : 7th August, 2006.

P.C. :

Heard learned counsel for the rival parties.

Perused petition.

2. The petitioner by this petition is seeking direction to issue writ of mandamus commanding respondent No.1 to grant admission to the petitioner for MBBS course in the Goa Medical College by revoking admission granted to respondent No.4 for the said course in Goa Medical College.

3. The factual matrix reveals that the petitioner after having passed 12th Science Examination in first class with 62% marks appeared for Common Entrance Test ("CET" for short) conducted by the respondents for admission to all professional colleges. In the CET, the petitioner secured 50.4.% marks and ranked at serial No.177. Petitioner's first option was MBBS course. Petitioner is from "Other Backward Class" ("OBC" for short) category, as such entitled to reservation. In the merit list of OBC category, petitioner figured at serial No.14.

4. In the first round of admission, petitioner did not get admission for MBBS course as there were only 12 seats reserved for the OBC category. She got admission for BDS (Dental). Subsequently, the reserved seats for OBC category increased to 17 as there was increase in overall for MBBS seats. Consequently, since the petitioner stood at serial No.14 in the merit list, she was entitled to get admission for the MBBS course.

5. The petitioner, on 20th July, 2006, could not reach the admission hall of respondent No.1 as she was late. Upon reaching there she was informed by respondent No.1 that she has lost the seat due to delay in reaching the admission hall. The petitioner having deprived of the right to claim

admission for the MBBS course has invoked writ jurisdiction of this Court under Article 226 and 227 of the Constitution of India.

6. Having heard rival parties and having perused the affidavit in reply filed by respondent No.1, it reveals that counseling for the students from OBC category started on 20th July, 2005 at about 10.10 a.m. The timings of counseling were given in the prospectus. The prospectus provides that the second round of admission shall be held on 20th July, 2005 at 10.00 a.m. In chapter-2 of the prospectus, it is provided as follows:

> "Every eligible candidate who is desirous of seeking admissions shall remain present at Directorate of Technical Education for counseling as per schedule along with Acknowledgment Card. Candidates reporting without Acknowledgment Card or Documents in original shall not be entertained. Applicants present will be given an opportunity to select a seat of choice from the seats available at the point of his or her merit.
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> If the applicant fails to turn up for counseling as specified in the admission schedule, or does not accept admission offered, he/she shall forfeit the claim of seat as per his/her turn in merit position for that round, and the seat will be offered to the next person in the merit list. In case the applicant reports late for admission (during the round of admission) his/her candidature shall be considered for the then available seats. The list of applicants already admitted shall remain unchanged and under no circumstances, the late applicants shall be allowed to replace the candidates already admitted.

7. According to respondent No.1, when the petitioner's turn came she was not present. Her name was announced

several times. However, since she was not present and the admission process could not be stopped, name of the candidate next to the petitioner in the merit list was called out and the process continued. According to respondent No.1, once the seat is offered to another candidate it is not possible to cancel the admission as and when the candidate higher in the merit list turns up for admission. That admission to professional courses is a continuous process and even if one admission is disturbed, it has a cascading effect on the admission already taken by the candidates.

8. Hence, considering the cascading effect on the admission already granted to the candidates in the process of admission, we do not think this is a case wherein this Court should exercise writ jurisdiction. All the candidates who have secured admission to the MBBS course are not before this Court. If this petition is allowed, all the candidates who were next to the petitioner will get disturbed for no fault on their part. At any rate, behind the back of such candidates no effective order can be passed in favour of the petitionr.

9. In the result, petition is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(N.A.BRITTO, J.)